

# Devens, Lo, Nakano, Saito, Lee & Wong

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February 6, 1997

### VIA FEDERAL EXPRESS

### BULK FILE

Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4594

Longevity International Enterprises Corporation

Gentlemen or Ladies:

Pursuant to your letter dated December 6, 1996, and our request for an extension, on behalf of our client, Longevity International Enterprises Corporation ("Longevity"), we are submitting the answers to interrogatories that were requested, together with relevant documents. In addition, this letter also sets forth Longevity's position on the allegations raised in your letter dated December 6, 1996, and the factual and legal analysis that was provided.

#### I. Pre-Probable cause conciliation.

As set forth in your letter dated December 6, 1996, Longevity is also interested in pursuing pre-probable cause conciliation and this letter serves as our notice in writing that Longevity is interested in pursuing pre-probable cause conciliation.

#### II. Argument.

The factual and legal analysis is alleging that Longevity provided a "contribution in kind" by providing Friends for Frank Fasi rent below market value. The years in question appear to be from 1988 through 1995. Longevity disputes the allegations on the following grounds:

##### A. Involvement by Foreign Nationals.

The factual and legal analysis at page 4 has several misstatements. First, the factual and legal analysis relies on a Honolulu Star Bulletin article which apparently stated that China Airlines was the owner of the Chinatown Cultural Plaza Shopping

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Center (the "Cultural Plaza") and Longevity was the managing agent. Longevity is not aware of how the Honolulu Star Bulletin obtained such information but the information is not correct. China Airlines does not own the Cultural Plaza and Longevity has been the owner of the Cultural Plaza since 1979.

Also, Longevity is not aware of the reference to the current "CDB" and any data showing a sale date of December 30, 1993. There had not been any sale of the Cultural Plaza in December 1993. Longevity has been the owner of the Cultural Plaza since May 11, 1979. The deed conveying this property is recorded in the Bureau of Conveyances of the State of Hawaii in Liber 13677 at Page 288, dated May 11, 1979.

With respect to an alleged violation of 2 U.S.C. §441e, while the law prohibits foreign nationals from making contributions to someone running for political office, the law itself is unclear as to when the situation involves a corporate entity.

As set forth in 22 U.S.C. §611(b) a corporate entity is defined to be foreign if it is "organized under the laws of or having its principal place of business in a foreign country." Clearly, under this definition, it is not applicable as Longevity is presently organized as a corporate entity under the laws of the State of Hawaii.

This Commission's own test for contributions is (1) whether the source of funds contributed was foreign or domestic and (2) whether those who participated in the decision to contribute were United States Citizens or permanent resident aliens.

While this situation does not involve an actual contribution applying this two-prong test, the first prong of the test appears inapplicable because as stated, this situation does not involve an actual contribution. As for the second prong of the test, our understanding is that Longevity had its own office staff in Hawaii. During most of the period in question, the operations manager was Mr. Louis Chang whose duties and responsibilities would include the day to day operations of dealing with the tenants and dealing with the problems of tenants. Mr. Chang is a United States Citizen. Therefore, we believe under this test foreign nationals did not participate in the decision-making process.

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B. The Figures and Office Classifications used are in Error.

The factual and legal analysis uses figures that are not correct. The factual and legal analysis assumes that the Cultural Plaza should be classified as a Class A and/or Class B building. There is no showing for such a basis. A check with the Building and Office Managers Association (BOMA) revealed to us that as for Class A buildings there is generally only one such building in town. The Cultural Plaza is not located in the downtown district of Honolulu. It is located off Chinatown in an area not in proximity to the business district of Honolulu.

Therefore, the argument as to the rents is in error. The space in question is located on the second floor of a complex located off Chinatown. The assumption that this is a Class A and/or Class B building assumes that the type of tenants that could be attracted to such a space would be a Class A and/or Class B business such as law firms, accounting firms, financial institutions, etc. There was no such interest by such class of tenants for such a space.

Mr. Fasi was also a month-to-month tenant after his written lease expired. As a month-to-month tenant, under Hawaii law, Mr. Fasi could have been evicted by the landlord at anytime with 45 days written notice. However, if evicted, the question is whether a substitute tenant paying more rent could be found.

Since Mr. Fasi had vacated the space in November of 1996, Longevity has only been able to lease out 200 square feet of the space. The base rent being paid by the tenant is \$1.00 a square foot. The remaining space is vacant.

The statistics relied upon has no bearing to the actual realities of the Hawaii real estate market for the years in question or for that matter for the Cultural Plaza.

The rent that is charged in the Cultural Plaza varies. For example, there are tenants paying a nominal fee which was lower than what Mr. Fasi was charged. For example, as we have provided, the space adjacent to Mr. Fasi's space, that being Hsing Chung Hui Memorial Foundation is allowed to lease the space for \$1.00 a year. Similarly, the Chinese Culture Service Center, and the Chee Kung Tong Society located on the third floor also have leases for \$1.00 a year.

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The point is, the data being relied upon to compare the rental charged is in error as the Classification that the Cultural Plaza should be classified as Class A or Class B property in Honolulu is without any basis and cannot be relied upon. Furthermore, the statistical data is not relevant to the Cultural Plaza as this is a property not located in the central business district of Honolulu. There is no expert testimony by anyone in the local community to support such allegations. Should it be necessary, Longevity also reserves the right to supplement this response by providing expert testimony through a real estate appraiser as to the value of rental charges.

## C. Statute of Limitations may be applicable.

The factual and legal analysis is investigating matters from 1988 through 1995. Under 2 U.S.C. §455, the limitation of actions bars any claim or alleged violation within three years.

Therefore it is questionable how this commissioner can raise matters going beyond three years.

As stated in the analysis provided, the Commission did an inquiry and investigated matters relating to Longevity in 1989. At no time during this previous investigation were issues raised relating to this matter which leads to another issue of whether this present inquiry should be barred since nothing further had been done since 1989.

Also, it is questionable with respect to the years in question, whether this Commission has jurisdiction over these matters in that Mr. Fasi was not running for office in some of the years in question nor has it been shown that Mr. Fasi was using this space as nothing more than his personal office. This Commission, it would appear, would only have jurisdiction to question the rent in the years when an office was at stake and Mr. Fasi was in fact running for office.

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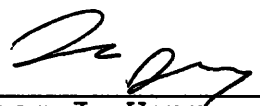
## III. Conclusion.

It is therefore Longevity's position that they certainly would like to discuss and resolve matters but at the same time, for the foregoing reasons, Longevity does not believe there is a basis for the allegations being made.

Very truly yours,

DEVENS, LO, NAKANO,  
SAITO, LEE & WONG

By

  
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Thomas J. Wong

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Enclosures

cc: Longevity International  
Enterprises Corporation

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